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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE PATROCINIO LEAL;
FLORIDALMA ZELAYANDIA DE
LEAL; JOSE LUIS LEAL

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-71634

Agency Nos. A72-442-280
A72-403-998
A72-403-999

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 8, 2005^{**}

Before: WALLACE, LEAVY, and BERZON, Circuit Judges.

Jose Patrocinio Leal, Floridalma Zelayandia De Leal, and Jose Luis Leal,
natives and citizens of Guatemala, petition for review of the Board of Immigration

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Appeals' ("BIA") decision affirming the Immigration Judge's denial of their applications for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny the petition for review.

Substantial evidence supports the BIA's denial of asylum and withholding of removal because the record does not compel the conclusion that Leal's conflict with Guatemalan soldiers was on account of an imputed political opinion. *See INS v. Elias-Zacarias*, 502 U.S. 478, 483-84 (1992); *see also Sangha v. INS*, 103 F.3d 1482, 1489-90 (9th Cir. 1997).

As the Leals failed to raise any argument addressing their request for relief under the CAT in their opening brief, it is deemed waived. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996) ([A]n issue referred to in the appellant's statement of the case but not discussed in the body of the opening brief is deemed waived"). We lack jurisdiction to address the Leals' other contentions because they were not exhausted before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004).

PETITION FOR REVIEW DENIED.